



U.S. Army Corps
of Engineers
Buffalo District
CELRB-TD-OT

Public Notice

Requestor: City of Toledo -
Division of Parks, Recreation,
& Forestry

Request No. 408-LRB-2019-0012
Published: May 5, 2020
Expires: May 25, 2020

Section: Operations & Technical Support Section

All written comments should reference the above Request No. and be addressed to:

Attn: Robert Remmers, P.E.
Chief, Operations & Technical Support Section
U.S. Army Corps of Engineers, Buffalo District
1776 Niagara Street
Buffalo, NY 14207

REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER UNITED STATES CODE TITLE 33, SECTION 408

**THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE
PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN
MADE AS TO WHETHER OR NOT PERMISSION FOR AN ALTERATION WILL BE
GRANTED AT THIS TIME.**

COMMENTS: Comments on the described work should reference the U.S. Army Corps of Engineers (USACE) Request Number shown above and must reach this office no later than the above Public Notice expiration date to become part of the record and be considered in the decision. Comments may be mailed to the above address or emailed to: robert.w.remmers@usace.army.mil.

FEDERAL CIVIL WORKS PROJECT DESCRIPTION: The Toledo Harbor navigation project is located on Lake Erie in Toledo, Lucas County, Ohio. The harbor includes 18 miles of federal navigation channel in the Maumee River and Bay, confined disposal facilities (CDFs), and turning basins. The harbor's CDFs include the Penn 7 CDF, one of the first pilot program CDFs in the area. The Penn 7 CDF was constructed in the 1960's and was used through the 1970's until filled. The current harbor was authorized by the River and Harbor Acts of 1899, 1911, 1935, 1950, 1954, 1958, and 1960.

ALTERATION LOCATION: Penn 7 CDF, located in Toledo Harbor on the west bank approximately 1.75 miles upstream of the mouth of the Maumee River, Lucas County, Ohio.

PROPOSED ACTION: The requestor is proposing to construct environmental restoration improvements at the Penn 7 CDF to include re-grading and relocating in-situ soils, installing a water control structure within the existing perimeter dike, and connecting a new dike to the existing

perimeter dike. The work may also include constructing a future site maintenance access drive. The purpose of this work is to create an enhanced habitat for fish and wildlife while maintaining the structural integrity of existing structures, proposed improvements, and enhanced habitat features. This Section 408 permission request only applies to project work being performed within the Penn 7 CDF.

LOCATION MAPS AND DRAWINGS:

- Attachment A - USACE project map for Toledo Harbor with a red box indicating the location of work.
- Attachment B - Location Map provided by the requestor.
- Attachment C - Overall Site Plan provided by the requestor.
- Attachment D - Water Control Structure Details provided by the requestor.

ADDITIONAL INFORMATION: Additional information may be obtained by contacting Robert Remmers, P.E., USACE - Buffalo District, at (716) 879-4277. Your inquiries may also be sent by email to robert.w.remmers@usace.army.mil.

REGULATORY AUTHORITY: This request will be reviewed in accordance to the provisions of Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408). This activity requires Section 10 (Rivers and Harbors Act of 1899) and Section 404 (Clean Water Act) permits and will be reviewed under the Nationwide Permit 27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities) based on the submitted plans.

EVALUATION: The decision whether to grant the requested permission for the project alteration under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization for important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for alteration will be reviewed by a USACE considering the following factors:

1. **Impair the Usefulness of the Project Determination.** The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. The decision to grant permission for this alteration request would be based on a determination of no impairments.
2. **Injurious to the Public Interest Determination.** Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the USACE project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the types of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion and accretion, and recreation. The decision whether to grant permission for an alteration will be determined by the

consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.

3. Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. USACE will satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analysis completed to comply with the other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The scope of analysis for the NEPA and environmental compliance evaluations for the Section 408 review is limited to the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration.
4. Environmental Impact Statement. A preliminary determination has been made that an environmental impact statement is not required for the proposed work, however, USACE is conducting a National Environmental Protection Act (NEPA) compliance review that will result in a Record of Environmental Consideration.
5. Technical Analysis. The USACE - Buffalo District is working closely with the requestor to ensure that technical plans, maps, drawings, and specifications are provided and complete. A review is being conducted to determine any potential adverse impacts to the USACE federal navigation project.

SOLICITATION OF COMMENTS: USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed activity. Comments received will be considered by USACE to determine whether to issue, modify, condition, or deny a permission for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

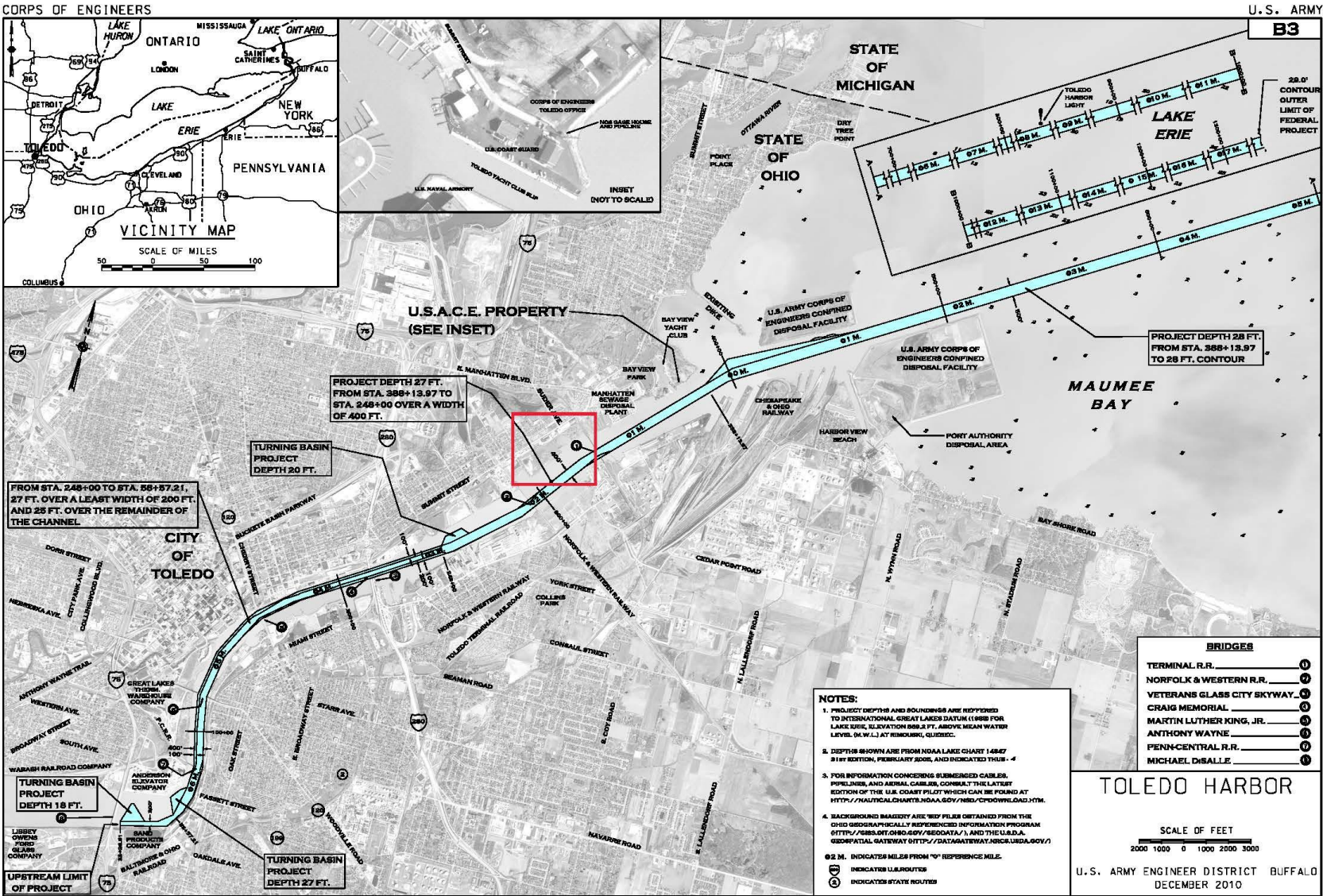
SUMMARY: It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA).

Interested parties wishing to comment on the proposed activity must do so in writing no later than May 22, 2020. It is presumed that all parties receiving this notice may wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

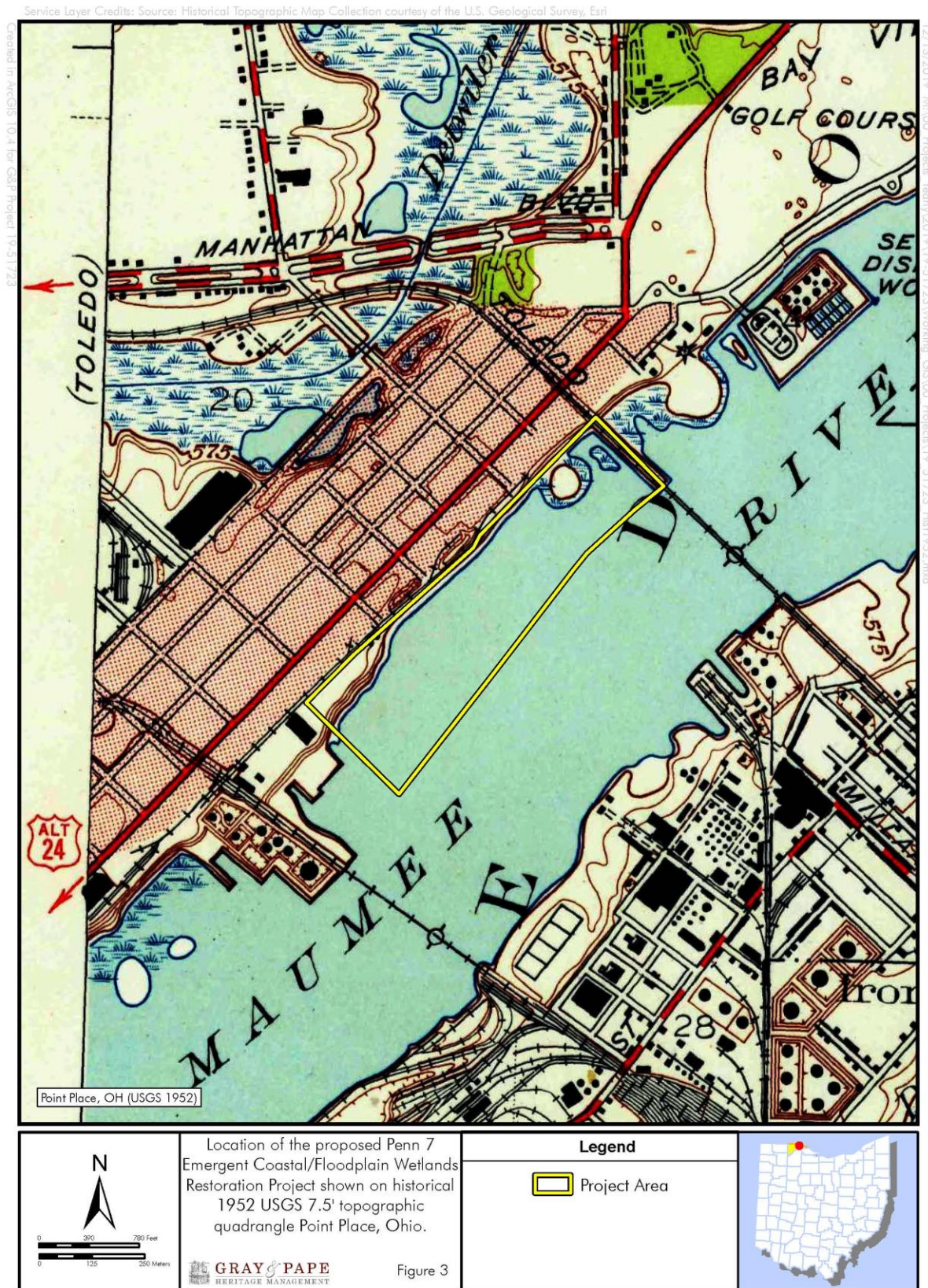
This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply USACE endorsement of the project as described.

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 21 days from the date of issuance.

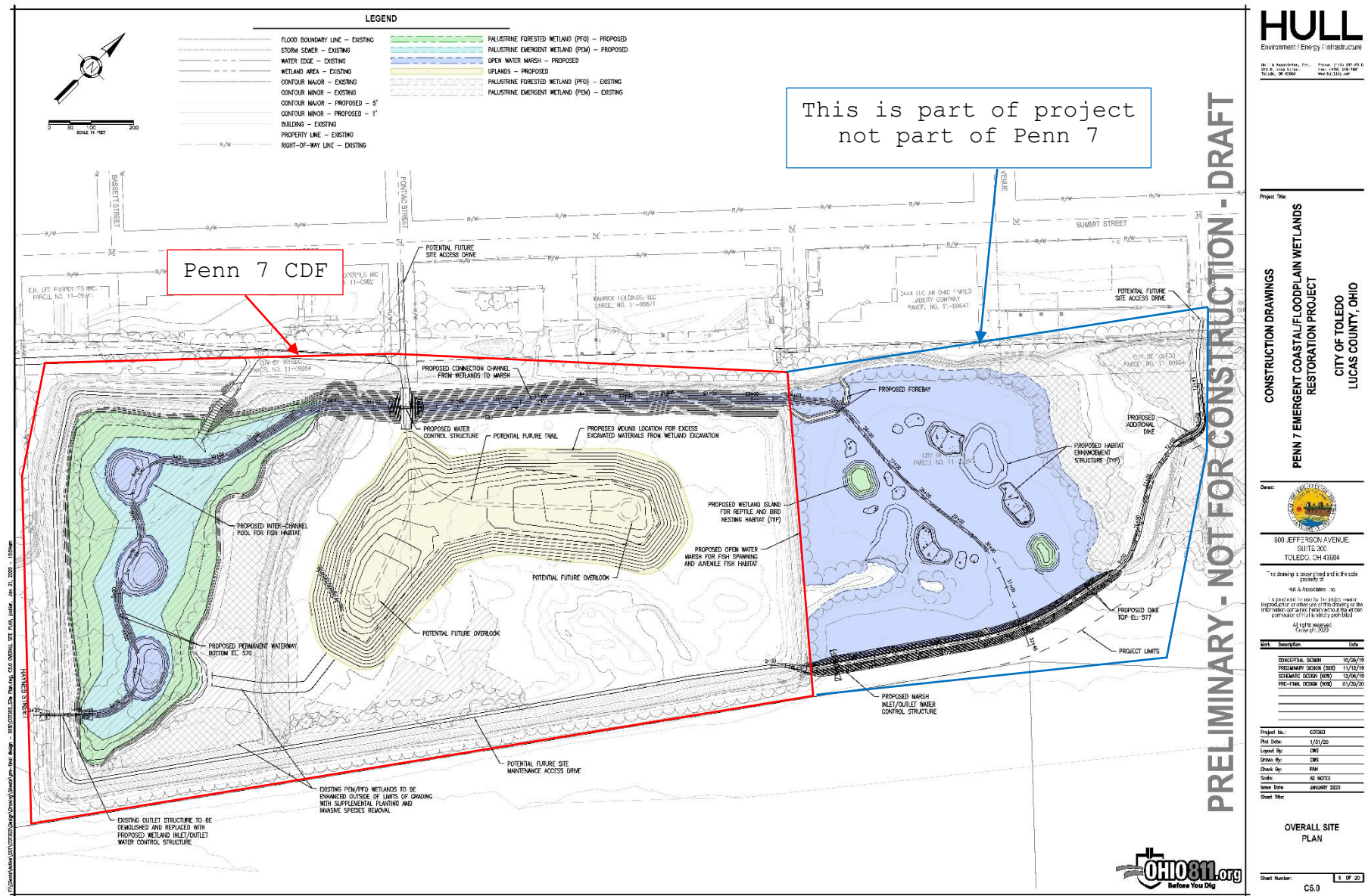
Attachment A – USACE Project Map



Attachment B – Location Map



Attachment C – Overall Site Plan

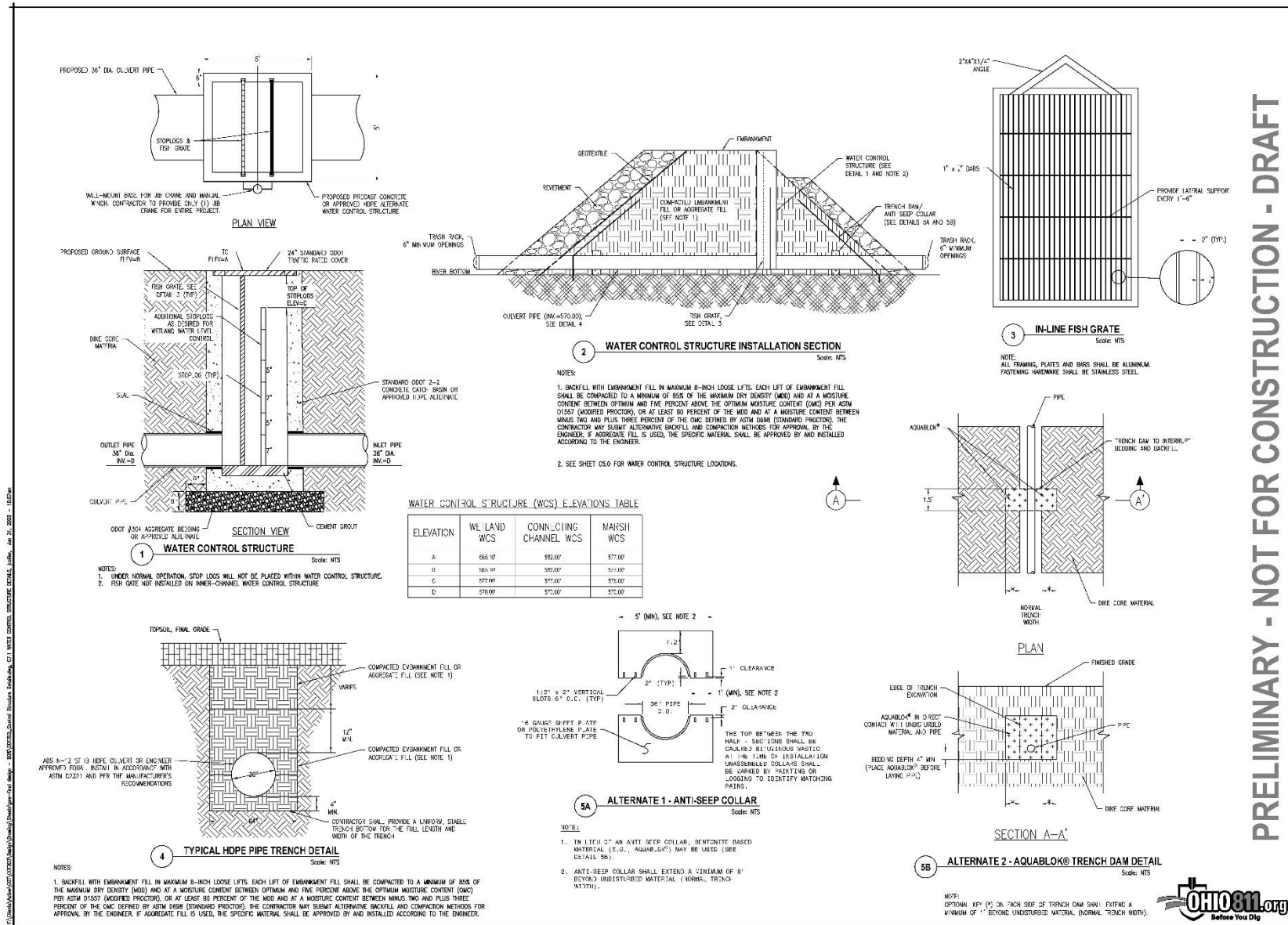


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Attachment D - Water Control Structure Details



CONSTRUCTION DRAWINGS
PENW 7 EMERGENT COASTAL FLOODPLAIN WETLANDS
RESTORATION PROJECT
CITY OF TOLEDO
LUCAS COUNTY, OHIO



600 JEFFERSON AVENUE,
SUITE 300
TOLEDO, OH 43604

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It is prepared for use by the project owner. Reproduction or circulation of this drawing or its contents without the written permission of the engineer is prohibited.

18 sheets (maximum)
- 2 sheets (minimum)

Rev	Description	Date
1	CONCEPT DESIGN	10/28/19
2	PRELIMINARY DESIGN (PDS)	11/12/19
3	SCHEMATIC DESIGN (SDS)	12/06/19
4	PRELIMINARY DESIGN (PDS)	01/29/20

Project No.: 007063
Part Date: 11/21/20
Issued By: CHS
Drawn By: AEL
Check By: PHH
Scale: AS NOTED
Issue Date: JANUARY 2020
Sheet Title: WATER CONTROL STRUCTURE DETAILS

Sheet Number: C7.1 11 OF 20

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Lucas County, OH
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